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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

BRANDON KOTANIEMI, individually and as  
special co-administrator of the ESTATE OF  
MARSHA KOTANIEMI; STEVEN KOTANIEMI,  
individually and as special co-administrator of the  
ESTATE OF MARSHA KOTANIEMI,

Plaintiffs,

vs.

BRIAN C. WARD, MD, an individual in his official  
capacity; STEPHANIE MARTINEZ, MD, an  
individual in her official capacity; EMILY TIBBITS,  
MD; an individual; LISA ANGOTTI, MD an  
individual; STATE OF NEVADA ex rel THE  
BOARD OF REGENTS OF THE NEVADA  
SYSTEM OF HIGHER EDUCATION ex rel THE  
UNIVERSITY OF NEVADA, LAS VEGAS, a  
political subdivision; et al,

Defendants.

Case No. 2:25-cv-540-APG-MDC

**MOTION TO REMAND**

Plaintiffs Brandon and Steven Kotaniemi, individually and as co-special administrators of the  
Estate of Marsha Kotaniemi move to remand this case to state court following the dismissal of the  
federal defendants.

Dated June 16, 2025.

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/s/ Tom W. Stewart  
Paul D. Powell (7488)  
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1 **POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This is a wrongful death medical malpractice case against a variety of doctors who botched  
4 decedent Marsha Kotaniemi's routine hernia surgery and resulting critical care. Two of those  
5 doctors—Dr. Emily Tibbits and Dr. Lisa Angotti—were purportedly federal employees when they  
6 rendered the medical care and removed the case to federal court under the FTCA.<sup>1</sup> Both Dr. Tibbits  
7 and Dr. Angotti have been dismissed from the lawsuit,<sup>2</sup> so the court no longer has subject-matter  
8 jurisdiction. The Court must therefore remand to state court.

9 **II. RELEVANT FACTUAL BACKGROUND**

10 On February 4, 2025, the Kotaniemis filed a complaint in the Eighth Judicial District Court  
11 alleging professional negligence.<sup>3</sup> This matter was removed by Dr. Tibbits and Dr. Angotti under 28  
12 U.S.C. § 1442(a)(1), which allows removal for federal officers or persons acting under them.<sup>4</sup> On  
13 May 27, 2025, the Kotaniemis filed a motion of voluntary dismissal as to both doctors pursuant to  
14 Rule 41(a)(1)(A)(i).<sup>5</sup> With the dismissal of Tibbits and Angotti, no federal officers or claims exist,  
15 the remaining claims arise solely out of state law and involve non-federal defendants from the same  
16 state.

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20 <sup>1</sup> See ECF No. 1 at 2 (Tibbits and Angotti “are members of the Air Force who were acting within  
21 the scope of federal employment pursuant to 28 U.S. C. § 2679 at the time of the events alleged in  
22 the complaint. Federal district courts have exclusive jurisdiction for tort claims arising under the  
Federal Tort Claims Act from the negligent or wrongful acts or omissions of federal employees  
acting within the scope of their employment or office. This action is being removed to the United  
States District Court pursuant to 28 U.S.C. § 1442(a)(1) [and] (3)”).

23 <sup>2</sup> See ECF No. 20.

24 <sup>3</sup> See ECF No. 4 at 4–24.

25 <sup>4</sup> ECF No. 1 at 2.

26 <sup>5</sup> See ECF No. 20.

1 **III. ARGUMENT**

2 Under 28 U.S.C. § 1447(c), a case must be remanded to state court “[i]f at any time before  
3 final judgment it appears that the district court lack subject matter jurisdiction, the case shall be  
4 remanded.” Indeed, “[i]f (as here) the plaintiff eliminates the federal-law claims that enabled  
5 removal, leaving only state-law claims behind, the court’s power to decide the dispute dissolves” and  
6 the Court must remand.<sup>6</sup>

7 Here, the doctors whose federal status was the sole basis for removal are no longer parties.  
8 Thus, the FTCA no longer applies, and the Court no longer has jurisdiction. The Court must remand.

9 **IV. CONCLUSION**

10 The Court must remand because the Kotaniemis’ claims no longer arise under any federal  
11 question.

12 Dated June 16, 2025.

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26 <sup>6</sup> *Royal Canin U. S. A., Inc. v. Wulschleger*, 604 U.S. 22, 30 (2025).  
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